Govt. II-27—45,000—6

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SERIES.

G.O. No. 383

DATED 2. 2. 1935

[Despatch Abstract.]

Suits - Mangalore Sub Court - O.S.Nos.123/32, 122/33, 136/33, 23/34, 27/34 and 37/34 - Escheat - Personal Properties left b late Oraa padi alias Padmavati Amma - Compromise - Orders pas

G.O. 8812 B
1-12-34

LAW (GENERAL) DEPARTMENT. C.F. 31

CURRENT No.

Received ASSISTANT SECRETARY TO GOVT. 1-DEC 1934 LAW DEPT. 19 Registered 19

Subject.

SUITS - (South Kanara) - Mangalore Sub Court - O.S.Nos.123/32, 122/33, 136/33, 23/34, 27/34 and 37/34 Escheat - Personal properties left by the late Draupadi Compromise proposals.

ENCLOSURES.
No.
Spare copies

Endt. A. No. 4929/34.

Station Madras, Dated the 29th November 1934

From
A.R.C. Westlake, Esq., I.C.S.,
Secretary, Land Revenue. and
~~The~~ Board of Revenue, ~~Revenue~~ Settlement, ~~etc.~~
~~Separate Revenue.~~

~~Resolution~~ ~~Reference.~~ C.A. Souter Esq., C.S.I., I.C.S.,
Commissioner of Land Revenue.

Read the following:--

Letter from E.M. Gawne, Esq., I.C.S., Collector of South Kanara, Ref: A.3.No.7354/28 dated 21st Nov. 1934

I enclose a copy of the Mangalore Government Pleader's letter No.C.344/34 (Confidential) dated 13th November 1934 in the matter of effecting a compromise of the six suits referred to above, in each of which the Government are a party, either as a plaintiff or as a defendant. Two of these suits were filed by

Government, three, jointly by Pundalika Kamthi, his brother Hari Kamthi and his cousin Koggana Kamthi and the last by one Upendra Kamthi. Some of them were originally filed in the District Munsif's Court, Mangalore, but as the subject matter of all of them was the same, a representation was made to the District Court and they were got transferred to the file of the Subordinate Judge, in whose Court they are all now pending. The particulars of the G.Os. sanctioning the institution or the defence of the suits are given below:-

O.S.No.in Sub Court.	O.S.No.in Dt. Munsiff's Court.	Names of Plaintiffs.	Names of Defendants.	No. and date of G.O. sanctioning institution or defence of suit.
1. 123/32	-	Government	B. Achutha Pai and 9 others.	G.O.No. ...s.3[illegible] Law (General) dated 12.[illegible].33.
2. 23/34	420/32	Do.	Seshagiri Rao & 3 others (including a supplemental defdt.)	
3. 122/33	--	Pundalika Kamthi and 2 others.	B. Achutha Pai & 10 others including Government (11th defendant)	G.O.No. ...s.3[illegible] Law (General), dated 1.12.33.
4. 27/34	210/33	Do.	Joses D'Sa Bai & 8 others including Government (9th defendant)	G.O.No. ...s.3[illegible] Law (General) dated 5.12.33
5. 37/34	238/33	Do.	Sheshagiri Rao & 4 others including Government (5th defendant)	
6. 136/33	312/33	Upendra Kamthi	Government (1st defendant) and 7 others.	G.O.No.ms.3782 Law (General) dated 22.11.33.

2. The facts of the case have been explained in my Ref: A.3.No.7354/28 dated 2nd September 1933, dealt with in the Board's endorsement A.3031/33 dated 15th September 1933 referred to in G.O.No. 3256 Law (General) dated 5th October 1933. For the sake of convenience I enclose copies of the plaints in all the six suits together with those of the written statements filed by Government in the latter four suits. I now find that the evidence in support of the Government's case is weak. The only documents on which the Government can lay their hands are (1) the will dated 5th February 1902 of Vatehalla Venkatesha Kamthi, by which he made over the properties to his wife, the deceased Draupadi alias Padmavati amma and in which he stated that he had no heirs except his wife, (2) Letter Ref: A.3. No.7354/28 dated 14th October 1928 from the Collector to the Sub Judge for taking action under the provisions of section 16 of Regulation III of 1802 (3) Notice in O.P. No. 41/28 issued by the Sub Judge in November 1928 calling upon the claimants to appear before him and to prove their claim (4) Sub Judge's order in R.I.A.No.1231 of 1929, dated 20th June 1930, dismissing the claim petition of the only claimant Upendra Kamthi, (5) Sub Judge's letter Dis.No.1941/30 dated 1st August 1930 to Government recommending that the property in question might be declared as escheat & (6) G.O. No.4918 Ms. Law (General), dated 20th November 1930 declaring the property escheat. It seems to me that documents Nos.2 to 6 (copies enclosed) will merely show that Government acted with bona fides

and carefully and that they will not help Government to establish the escheat against the present claimants. The fact that the will of 1908 (document no.1 copy enclosed) says that there were no heirs will not, in my opinion, have much evidentiary value.

3. In this connection, I may, however bring to the notice of the Board that Upendra Kamthi, the plaintiff in O.S.136/33 is no other than the man, whose claim petition before the Sub Judge was dismissed for the reason that he did not press for it. Pandalika Kamthi the first plaintiff in O.S.122/33, 27/34 and 37 34 is the man, who had, along with others, filed the test suit, O.S.no.66/28 on the file of the District Munsiff's Court, Mangalore, referred to in para 3 of my letter dated 2nd September 1938 quoted above. This test suit was, I understand, withdrawn after obtaining leave from the Court to bring in a fresh suit. Thus, it can be said that the case for these plaintiffs is also weak. All the same, I understand that these plaintiffs as also some of other parties are going to unite to establish the claim of Mr. M. Venkat Rao, retired Hazur Sheristedar, referred to by the Government Pleader, as against any escheat, as a preliminary issue.

4. It seems to me that Government have continued to press the escheat matter because the possible heirs took little or only half hearted interest in the escheated property, which consisted (but for the family utensils) in money lent on mortgage. This was property which could only be realised by litigation. The Government however have been successful in realising one of the mortgage amounts. The

other claimants now find that there is a sum of cash at stake. It appears that M. Venkat Rao, an old man, did not want to push forward his claims, as against the Government considering that it would only render him a target for attach by those who call themselves reversioners. So he kept quiet; now all the claimants are likely to unite atleast to defeat the escheat claim in the first instance so that they can litigate for such 'spoils" as have been realised by the Government.

5. I enclose the petition of Mr. Venkat Rao, together with the affidavits filed by him and the papers of enquiry held in that connection as also the former Government Pleader's letter Ref: No.5/1930 dated 19.7.'30 in original. It is an undisputed fact that the properties in question originally belonged to the late Vatehalli Venkatesha Kamthi, husband of the deceased Draupadi alias Padmavathi. Mr. Venkat Rao claims to be this Venkatesha Kamthi's mother's brother's son and a "Bandhu" entitled to succeed to his properties. In support of his claim, he has filed affidavits from three respectable and elderly gentlemen who are highly spoken of by the Government Pleader and who are alive. The Dy. Tahsildar, Bantwal has also examined four other witnesses, one and all of whom support the petitioner's claim. As already stated above, the documents in support of the Government's case will not help to defeat this claim of

Mr. Venkat Rao and another weak point in the Government's case is that the Tahsildar, Mr. [illegible] (now retired) was of opinion that Mr. Venkat Rao's claim was good and would succeed. It may be argued that he is not a party to any of the suits, but I submit that it is not difficult task for him to get himself included as a party. Dewan Bahadur B. Mahabala Hegde (the former Government Pleader) said that 'mere affidavits by respectable persons that he is a Bandhu may not be sufficient proof'. But Government have nothing to disprove it except the mere statement in the will of Venkatesha Kamthi and by Durga Kamthi, widow of Draupadi alias Padmavathi Amma, referred to at page 2 of the Government Pleader's letter. I do not think that this will help Government to any considerable extent. The evidence on behalf of Government is merely negative, that claimants did not come forward when the Deputy Judge published his notice in the District Gazette and that claims if any hitherto have not been pressed.

6. The Government Pleader naturally receives such information as to the way in which litigation may go and is no doubt influenced by the fact that Mr. M. Venkat Rao is not a rustic but a retired Sheristadar of the Collector's office, whose son is a law graduate and looks to be such as if the Government Pleader realised that another is to be declared to be the heir, there will be no doubt that the Government will not succeed in the action.

7. There is no doubt that Government can show that the other claimants to the property have been extremely dilatory in pressing their claims, so dialtory as to lead the Government to the reasonable belief that the claims were not proper. It was therefore the duty of the Government to press forward the escheat. But I submit that equally is it proper that when the Government are made to understand that the escheat proceedings will ~~fail~~ fail, the Government should not continue litigation for the sake of its amour propre, but should retire from the suits. This is consistent with its policy in criminal cases where the Public Prosecutor obtains the consent of the District Magistrate to withdraw a Sessions case if informed by the Sessions Judge that the evidence on record in the lower court cannot justify the spending of the Court's time in a case which must end in acquittal.

8. In these circumstances I think it better that some sort of compromise is attempted before the suits come up for trial. All the suits stand posted to 30th November 1934 but an adjournment can be taken. I request that the Board may be pleased to obtain the opinion of the Government Pleader, Madras and intimate to me whether it considers that a compromise may be moved for in this case.

9. I request that the copies of the plaints and written statements and other papers may be returned to me in due course.

ENDORSEMENT:--

Submitted to Government, with reference to the correspondence ending with [illegible] (General) dated 22nd November 1933.

Secretary.

To the Secretary to Government,
Law (General) Department with Collector's file of papers and ~~enclosures~~ local G.O. letter in original.

V.S.29/11.

Confidential.

No.C.344/34.

Office of the Government Pleader
& Public Prosecutor, Mangalore,
13th November 1934.

From

M. N. Prabhu, B.A.,B.L.,
Government Pleader, Mangalore.

To

The Collector,
South Kanara, Mangalore.

Sir,

Suits - Escheat property - Panjikal village - O.S.Nos. 123/32, 122 and 136/33, 23, 27 & 37/34 - Subordinate Court, South Kanara.

My letter C.341/34 dated 7th November 1934.

The above suits all relate to the assets of one Draupadi alias Padmavathi Amma who died intestate on 9-5-1927. The assets consist of three mortgages (1) dated 13-7-1920 for Rs. 2000/- (2) dated 11-1-1927 for Rs. 1000/- and (3) dated 15-7-1920 for Rs. 1000/- and also a few moveables which the Government took possession of and sold realising a sum of Rs. 70-2-3.

We have filed a suit on the first mortgage O.S.123/32 and the suit amount is Rs. 3086-6-8.

Another suit we filed for interest only, viz. Rs. 332-8-0. This is O.S.No. 23/1934.

Pundalik Kamthi, Hari Kamthi and Kogga Kamthi have filed a suit O.S.122/33, in which we are the 11th Defendant, to enforce the same mortgage, which is the subject matter of our first suit. These Plaintiffs claim to be the nearest agnatic relations of the last holder.

Upendra Kamthi has filed a suit O.S.136/33, alleging that he and his brothers Narayana, Ramachandra, Manjunatha and Narasimha are the nearest heirs, and seeking for a declaration that he is entitled to a fifth share of

all the three mortgages and the moveables. In this suit Government is the 1st Defendant.

In O.S.27/1934, the same Plaintiffs, Pundalik Kamthi and two others (vide O.S.23/34) seek to enforce the second mortgage for Rs. 1000/-. The suit amount is Rs. 2216-6-11. Government is the 9th Defendant.

In O.S.37/34 the same Plaintiffs, Pundalik Kamthi and 2 others, seek to enforce the same mortgage on which we have filed our suit O.S. 23/34. We are the 5th Defendant in this suit.

The admitted facts of the case are that these are the assets of one Votehalla Venkatesha Kamthi, the husband of the last holder Draupadi alias Padmavathi Amma, and he bequeathed them to her under a Will dated 5-3-1902, in which the testator says that he has no heirs.

If either Venkatesha Kamthi or his widow have left any heirs, known to the Hindu Law, the Government cannot succeed.

The first issue in our first suit is "Has the mortgagee Draupadi alias Padmavathi left no heirs entitled to the mortgage amount and has Plaintiff got a right to the mortgage amount by escheat as contended by him and is he entitled to maintain the suit?"

Thus the burden of proving that there are no heirs lies on us, and before we can shift the burden to the other side we have to adduce some evidence. I find that except the statement of Venkatesha Kamthi in his Will no evidence is available to us to rebutt the evidence that may be adduced by the other side. In the records I find that one Subraya Kamthi, the nephew of the last holder, says that there are no heirs in the family of Draupadi alias Padmavathi. Apart from this, Government cannot succeed if it is proved that Venkatesha Kamthi has left bandhus. I find from the records that one M. Venkat Rao, who was the Huzur Sheristedar, has put forward his claim in the escheat enquiry as a bandhu. His claim is that his father Ramachandraya is the son of

Venkatesha Kamthi's maternal uncle. If that is so, there is no escheat. Mr. Ramachandraya was a well known Vakil who lived to a ripe old age and Mr. M. Venkat Rao is also an aged man held in high respects in Mangalore. He has filed, to support his claim, affidavits from (1) K.P. Rama Rao, paternal uncle of Dewan Bahadur K.P. Lakshman Rao, High Court Judge, himself a man past 70 years and a lawyer commanding great respect, both at the Bar and beyond it, (2) M. Rangappa Bhandary, aged about 77 years, who appears to have worked as a junior under Ramachandraya, (3) Lakshamana Baliga, (the younger brother of the deceased Draupadi), (4) Lakshmana Baliga, 70 years of age, is a merchant in Buntwal who is also a Defendant in the suit.

In the Revenue enquiry that followed the Deputy Tahsildar Mr. M. Subba Rao has recorded the statements of (1) Madhava Baliga (2) Lakshmana Baliga (3) Narsayya Prabhu (4)Achutha Pai, one of the Defendants to the suits, (5) Ramakrishna Bhatta. The Tahsildar Mr. N. Krishnappa (vide his report dated 6-2-1932) reported as follows:-

"The records of the enquiry held through the Deputy Tahsildar of Buntwal Sub Taluk and the genealogy produced by the Petitioner Mr. M. Venkat Rao show that the relationship to the last holder Venkatesha Kamathi claimed by the Petitioner as one of the bandhus on his mother's side is true and that he is entitled to succeed to the properties in question in the absence of Saphindas and Samanodakas and of bandhus on his father's side. The Petitioner who was examined by me has given reasons for the delay in preferring his claim and has quoted authority in support of his contention that his claim is within time".

I suspect that Mr. Venkat Rao would have rushed to Court and filed suits on the mortgages had it not been for the fact, that there are agnatic relations surviving the deceased, when he had a strong case as a bandhu.

Under the circumstances, I went further into the matter to see why Government filed these suits and I came across the legal opinion given by my predecessor, the relavent portion of which I give herebelow:-

"Two conditions have to be satisfied before Mr. Venkat Rao's claims can be considered. First he must prove his relationship as a Bandhu by a genealogical table prepared at an undisputed time. Mere affidavits by respectable persons may not be sufficient proof. The evidence of these persons must stand the test of cross-examination. Secondly it must also be proved that there is absolutely no possibility of other relations coming in with claims.

"The claim having been put in long after the D.C. ----- declaring escheat cannot be considered. The best course for the claimant is to file a suit to establish his claim to the estate.

"In case Government now recognises the claim of Mr. Venkat Rao, there is a possibility of another similar claimant putting forward his claims. The position of Government will then be very awkward. The best course therefore is to wait for civil suits from claimants."

On this, the suits clerk, whom I consulted to-day with his office files, has put up the following note:-

"In the circumstances stated by the Government Pleader the petition of Mr. M. Venkat Rao has to be rejected and he asked to seek his redress in a civil court, if so advised. x x x As, however, we have now to apply for Board's sanction to file suits against Achutha Rai and his brothers and also against Seshagiri Rao, it seems advisable that the entire case is reported to the Board, stating therein that the Collector intends passing orders as proposed above on the petition of Mr. Venkat Rao."

The then Collector observed that there was no need to report the matter to the Board on the points which he opined were clear enough.

I have to differ from the opinion of my predecessor on the case advanced by Mr. Venkat Rao, as he does not seem to have considered whether this claim will prevent escheat.

My object in addressing this note to you is to seek your instructions about these suits which will be heard in the -----

Subordinate Court on 30-11-1934. It will be difficult, in my -- opinion, to prove our case of escheat or even to put up a good fight and if the suits are lost ignominously, it is sure to cast a reflection on Government suits generally in this district.

I think I can, if I approach the Vakils for the Defendants, get a compromise decree which will save our face and at the same time save us from having to pay costs to the other side.

I therefore request that early instructions may be issued to me.

There is another circumstance that has to be brought to -- your notice. If our suits are lost or compromised, there will be a question of refunding the assets that we have realised, and if you are agreeable to a compromise I shall also pay my attention to this matter.

The connected records are herewith sent.

Your most obedient servant,

(Sd.) M. N. Prabhu,

Government Pleader.

(True Copy)

Mmadhavarao 22.XI.

For Collector.

MM 22.11.34

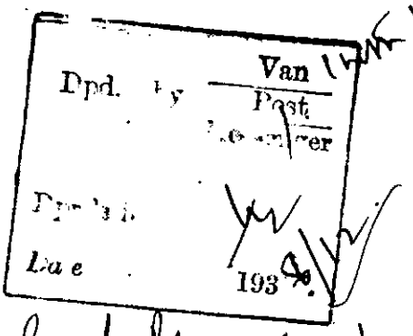
14 Law(Generals)

Suit No 88/23 d 7.12.'34

Suits - South Kanara - Mangalore

Sub Court - OS. Nos 123/32, 122/33, 136/33, 28/34, 27/34 and 37/34

Compromise proposals - Board of Rev. LRS Suit No A-4929/34 d 29-11-34



Referred to the Government Pleader, Madras, for early remarks.

19/5.12.34

5/12

BB 5/12

S 6.12.34

P. the Govt Pleader, Madras (with the CF and its Encl. in original & the returns with reply)

C.F. 30.

Judicial 15 DEPARTMENT. 29 Dec 34

Received ..... 19 *Registered* 22 Dec 1934

Subject.

Suits - South Kanara - Mangalore Sub Court - O.S.Nos. 123/32, 122/33, 136/33, 23/34, 27/34 and 37/34 - Compromise proposals - Opinion submitted.

ASSISTANT SECRETARY TO GOVT. 22 DEC 1934 LAW DEPT.

ENCLOSURES.
No. .....
.....
Spare copies .....

Opinion No. 28.

Station Madras., *Dated the* 21st December '34 19

From (Name) M.R.Ry., Rao Bahadur P. Venkataramana Rao Avl.,
(Designation) Government Pleader,
Madras.

To The Secretary to the Government of Madras,
Law (General) Department.

Sir,

With reference to Government Endorsement No. 8812 B-1, Law (General), dated 7-12-34, I have the honour to submit the following

Ref ante

O p i n i o n:

Where Government claims any property by escheat, it is for the Government to prove that the last holder died without heirs and then it is open to the claimant to prove his own title or to set up the title of a third party - (12 M.I.A.448).

If

If therefore it becomes evident that there is a legal heir living though he is no party to the pending suits the claim of the Government by escheat will fail. The learned Government Pleader, who I presume, is more competent to judge on a question of fact, appears to be of the opinion that it can be established that one Venkata Rao is a heritable bandhu. If that were so there can be no escheat. A compromise may be in such circumstances advisable to prevent further ineffectual litigation involving great expense.

The enclosures are herewith returned.

I have the honour to be,
Sir,
Your most obedient servant,

P. Venkata ...

Government Pleader.

Law (General) **DEPARTMENT.** C.F. 31

CURRENT No.

Received 22 JAN 1935 19 *Registered* L.G. 432B 22-1-35.

Subject.

Suits - Mangalore - Sub Court - O.S.Nos.123/32, 122/33, 136/33 23/34, 27/34 and 37/34 - Escheat - Personal properties left by late Draupadi alias Padmavati Amma - Compromise.

ENCLOSURES.
No.
Spare copies

Endt. A. No. 275/35

Station Madras, *Dated the* 19th January 1935.19

From

A.R.C.Westlake, Esq., I.C.S.,
Secretary, Land Revenue. and
~~The~~ Board of Revenue, ~~Revenue~~ Settlement, ~~etc.~~
~~Separate Revenue.~~

~~Resolution~~
~~Reference.~~

G.T.Boag, Esq., C.I.E., I.C.S.,
Commissioner of Land Revenue.

Read the following:--

Letter from E.M.Gawne, Esq., I.C.S., Collector of South Kanara, Ref: A.3.No.7354/28 dated the 12th January 1935.

Endorsement:-

Submitted to Government in continuation of Board's Endorsement A.4929 dated 29th November 1934.

21.1.35
for Secretary.

To the Secretary to Government, Law (General) Department.
Copy to the Collector of South Kanara.
G.S.S./S.P.A 21-1
V.S.21-1.

P.T.O.

Copy of letter from E.M.Gawne, Esq., I.C.S., Collector of South Arcot, Ref: A.J.No.7/54/28 dated 12th January 1933.

Ref: My report Ref: AJ.No.735/28 dated 21st November 1934.

*****

Since the despatch of my letter quoted above, I have received two summonses--one in O.S. No.125/32 and the other in O.S.No.136/33--for the production in court of certain documents which were submitted to the Board along with my report. I therefore request that the opinion of the Government Pleader, Madras, may kindly be obtained and communicated to me at an early date with the Board's instructions on the subject and the records submitted by me.

19

Law (General) DEPARTMENT. C.F. 31

ASSISTANT SECRETARY TO GOVT. 27 JAN 1935 LAW DEPT.

CURRENT No.

Received ..... 19 *Registered* L.G.S.85-B 19
28.1.35

Subject.

Suits - Mangalore - Subordinate Court - O.S.Nos.123/32, 122/33, 136/33, 23/24, 27/34 and 37/34 - Escheat - Personal properties left by late Draupadi alias Padmavati Amma - Compromise.

ENCLOSURES.
No.
Spare copies

Endt. A. No.408/35.

Station Madras, *Dated the* 26th January 1935.19

From

A.R.C.Westlake, Esq., I.C.S.,
Secretary, Land Revenue. and
The Board of Revenue, ~~Revenue~~ Settlement, ~~etc.~~
~~Separate Revenue.~~

G.T.Boag, Esq., C.I.E., I.C.S.,
Commissioner of Land Revenue.

Resolution
Reference.

Read the following:--

Letter from E.M.Gawne, Esq., I.C.S., Collector of South Kanara, Ref. A.3.No.7354/28 dated 22nd January 1935.

Endorsement:-

Submitted to Government in continuation of Board's Endorsement A.275/35 dated 19th January 1935.

for Secretary.

To the Secretary to Government, Law (General) Department.
Copy to the Collector of South Kanara.

V.S.26/1.

Copy of letter from [illegible], Esq., I.C.S., Collector of South Kanara, Ref.No.No.7554/28 dated 28nd January 1935.

Refce: My report, Ref.No.No.7554/28 dated 21-11-1934.

***

In continuation of my letter Ref.No.No.[illegible] dated 12-1-1935, I submit that the suits in question stand adjourned to 8-2-1935.

Law(General)Department.

(C.No.8812-B) From the Board of Rev.,L.R.& S.,Endt.No.A.4929/34 d.29.11.34.

Endt to the Govt.Pleader, Madras, No.8812-B1 d.7.12.34

(C.No.9302-B) From the Opinion No.28 d. 21.12.34.

(C.No.432-B) Board of Rev.,L.R.& S. Endt.No.A.275/35 d.19.1.35

Suits- South Kanara district- Mangalore Sub-Court — O.S.Nos.123/32, 122/33, 136/33, 23/34,27/34 and 37/34 -Escheat of personal properties of the deceased Droupa -di Amma- Compromise proposals.

A.S.

(F) In G.O.No.4918 L.G. d. 20.11.30, orders were passed declaring the properties left by the deceased Droupadi Amma of Panjikal in the district of South Kanara, (who died intestate) escheated to Government, after observing the conditions prescribed in section 7 of the Madras Regulation III of 1802. As she is had advanced loans on the execution of mortgage-deeds, suits were ordered to be filed for the recovery of the loans covered by mortgage bonds to an extent of nearly Rs.3,418 ~~and odds~~. Vide G.O.No.3728 L.G. d. 12.10.32. The suits (Two are in the S.C. Mangalore and the other in the Sub Court, Mangalore) are still pending.

(S) Para 3 at p3 d, M32&34 - 5-1033 (Q)

2. Subsequently, Pandalik Kamthi and two others filed petitions in forma pauperis in the Dt.Munsif's Court Mangalore claiming, as heirs (or reversioners to) the deceased, a decree for payment to them of the amounts due by the deceased mortgagor, Paul Andrew D' Sa, from his legal representatives, and of the amounts due by the mortgagor D. Seshagiri Rao and his heirs. These form the subject matter of suits Nos.210 and 238/33 on the file of the Dt.Munsif's Court Mangalore. As the Government also were impleaded as a defendant, the defence of the suits was sanctioned, at the request of the Collr, in

Para 2 at pp 21-22 (Q)

1-2-35 (R)

22

G.O.No.3256 L.G. d. 5.10.33.

Upendra Kamath also filed a suit in forma pauperis claiming a certain share in the moveables and mortgage amounts of the deceased, impleading the Government also as one of the defendants. This forms the subject of suit No.312/33 on the file of the Sub-Court, Mangalore. Its defence also was sanctioned in G.O.No.3782 L.G. d. 22.11.33.

Pundalik Kamthi and others filed another suit for the recovery of the amounts due by Achyuta Pai and others, impleading the Government also as a defendant. This forms the subject of O.S.No.122/33 on the file of the Sub-Court, Mangalore. The defence of this suit was also sanctioned in G.O.No.3895 L.G. d. 1.12.33.

3/ As all the suits related to the assets of the deceased Draupadi Amma, they were all transferred to the file of the Mangalore Sub-Court and assigned new numbers.

The local Government pleader's opinion as to the chances of the Government succeeding in the suits is at pp.9-12 C.F. He would advise compromise, as he considers that the pet. Mr. M. Venkat Rao is not the sole heir. The Collector also agrees with the G.P. and is of the view that who-ever may succeed in the suit in regard to his claim as heir to the properties of the deceased, there would be no doubt that the Government would not succeed in the suit. The Collector would therefore compromise the suits, so that the Government might be spared the costs.

The Government Pleader, Madras, also has been consulted as the Collector desired. He says that the Government have to prove that the deceased died intestate. He considers that the opinion of the local Government pleader who should be more conversant with the facts, and who says that it can be established, may be acted on, and compromise effected. Such a course, in his opinion, would prevent further ineffectual litigation involving great expense.

4 It is submitted that the opinion of the Government

2½

Pleader, Madras, mayabe communicated to the Board.

It may be informed that the Government have no objectio to effecting a compromise as suggested by the Collector. A draft of the terms of compromise prepared in consult-ation with the local Govt Pleader may be called for, with the remarks of the Board, for the ~~adeptance~~ approval of Govt.

A draft order is submitted.

88
24/1/35
CAV
22/1

25/1

S

The Collector's report and the Local Govt. Pleader's opinion fully explain why this matter was proceeded with until the present stage.

pp 1-13 c.f

All that Govt heard about Mr Venkata Rao's Claim at any previous stage was that his claim to be a bandhu was rejected by Alter Hussain the then Collector.

p. 4 of G.O. 3256 25/10/33 (Q)

p. 30 of G.O. 3728 dt 12/10/32. (S)

(See also para 3 of the rep. of the Collector in which he refers to the rejection of a claim petition - which may be the one by Mr. Venkata Rao.).

Revenue may see before circulation.

Rev: 24/1/35

426 B1
11/1 30

B4

G. O. No. 88/2B/35-2 25/1/35

25.1.35

Rec'd 31.1.

Draft may be accepted

(But 'Escheat' is a subject allotted to the Rev Dept- in the distribution of business among Secretaries, & it is not clear why the Law Dept has been dealing with this case.)

28.1.[illegible]

S [illegible]
29.1.35

Law ([illegible]

Law([illegible])

H.J.

May be circulated to the C.2.

(With ref. to the note of Mr H.J. enclosed within brackets, above, it is submitted that the question of intestate property is being dealt with in the Legislature's L.C. for a long time. The index of 1912 also shows that this is the case.)

29/1/35 CW 30/1

30/1 30.1.35. C. Kerr 1-2-35